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In re Application of :
CHALL :
Application No.: 10/585,079 : DECISION ON
PCT No.: PCT/NL2004/000922 :
Int. Filing Date: 29 December 2004 : PETITION UNDER
Priority Date: 30 December 2003 :
Attorney Docket No.: 292853US2PCT : 37 CFR 1.497(d)
For: METHOD, DEVICE AND DIFFRACTION
GRATING FOR SEPARATING SEMICONDUCTOR
ELEMENTS FORMED ON A SUBSTRATE BY
ALTERING SAID DIFFRACTION GRATING :
:

This decision is in response to applicant's renewed petition under 37 CFR 1.497(d) filed in the United States Patent and Trademark Office (USPTO) on 05 November 2007.

BACKGROUND

On 29 December 2004, applicant filed international application PCT/NL2004/000922 which designated the U.S. and claimed a priority date of 30 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2006.

On 29 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee.

On 23 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 23 July 2007, applicant filed a submission which was properly treated as a petition under 37 CFR 1.497(d). The petition was accompanied by a statement by Petrus Henrikus Van Der Laak, a statement by Hans Peter Chall, and a declaration.

On 05 September 2007, a decision was mailed dismissing without prejudice applicant's

petition under 37 CFR 1.497(d) because it was not clear whether there was an assignee. If there was an assignee, it was noted that the written consent of the assignee was required.

On 05 November 2007, applicant filed the instant renewed petition under 37 CFR 1.497(d) which was accompanied by, *inter alia*, a showing under 3.73(b) and a statement of the assignee.

DISCUSSION

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92^{bis} subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in Sec. 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

As noted in the decision mailed 05 September 2007, items (1) and (2) have been satisfied and item (4) is not required.

Item (3) has now been satisfied.

CONCLUSION

The request under 37 CFR 1.497(d) is GRANTED for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision including processing the application in the name of Hans Peter Chall as inventor.

/Daniel Stemmer/

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